

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
 RECEIPT # _____
 AMOUNT \$ 150
 SUMMONS ISSUED _____
 LOCAL RULE 4.1 _____
 WAIVER FORM _____
 CIVIL ACTION NOT ISSUED _____
 BY DPTY. CLK. 98
 DATE 9-9-04
MARTIN J. GALVIN, JR., ED.D,
Plaintiff

VS.

THE TOWN OF YARMOUTH,
PETER L. CARNES AND STEVEN XIARHOS
Defendants


04 } 11958 RGS

MAGISTRATE JUDGE GheraDEFENDANTS' NOTICE OF REMOVAL OF ACTION FROM STATE COURT

Pursuant to 28 U.S.C. §1441, defendants petition for removal of this action to the United States District Court for the District of Massachusetts. As grounds therefore, the defendants state as follows:

1. On or about July 6, 2004, the plaintiff filed this suit in the Barnstable Superior Court, Civil Action No. 04-401.
2. On August 23, 2004, the plaintiff's complaint was served upon the defendants. Attached as Exhibit A is a copy of the plaintiff's complaint.
3. This Court has original jurisdiction of this action because the plaintiff and the defendants are citizens of different states, as authorized by 28 U.S.C. §1332 and it is subject to removal under 28 U.S.C. §1441.
4. This Notice of Removal is being filed within the time period required by law, 28 U.S.C. §1446(b).

Respectfully submitted,

DEFENDANTS,
By their attorneys,

 Leonard H. Kesten, BBO No. 542042
 BRODY, HARDOON, PERKINS & KESTEN, LLP
 One Exeter Plaza
 Boston, MA 02116
 (617) 880-7100

Dated: September 8, 2004

 I hereby certify that a true copy of the
 above document was served upon (each
 party appearing pro se and) the attorney
 of record for each (other) party by mail
 by hand on 9/8/04
